

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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Avista Corporation)	
Bonneville Power Administration)	
Idaho Power Company)	Docket No. RT01-35-000
The Montana Power Company)	
Nevada Power Company)	
PacifiCorp)	
Portland General Electric Company)	
Puget Sound Energy, Inc.)	
Sierra Pacific Power Company)	

**PUBLIC GENERATING POOL
MOTION FOR EXTENSION OF TIME
TO FILE PROTEST AND COMMENTS**

Pursuant to FERC Order No. 619, 18 CFR 375.302(b), and Rule No. 2008 (18 CFR §385.2008), the Public Generating Pool ("PGP") requests a one-day extension of time for the filing of its Protest and Comments in the above-captioned matter. This motion is supported by the attached Affidavit of William J. Ohle, counsel for PGP.

The PGP attempted to file its Protest and Comments on the date they were due, November 20, 2000. The PGP attempted such filing both by electronic filing pursuant FERC Order No. 619 and, when that failed, by hand-delivery of one faxed copy. The FERC website was not allowing a connection to upload the file, and the Commission Clerk would not accept a faxed copy without an original signature (see Ohle Affidavit).

While counsel for PGP, Mr. Ohle, attempted to file electronically for approximately three hours, he was finally able to confirm with the FERC computer helpline at approximately 4:55 p.m. EST that the FERC website was in fact not operating properly. However, at approximately 5:15 p.m. EST, the PGP did successfully log onto the FERC website and file its Protest and Comments. In any event, the PGP is filing herewith one original and 14 copies of its Protest and Comments. The PGP therefore requests the Commission grant it a one-day extension for the filing of its Protest and Comments on November 21, 2000.

Respectfully submitted this 20th day of November, 2000.

SCHWABE WILLIAMSON & WYATT

A handwritten signature in dark ink, appearing to read "William J. Ohle", is written over a horizontal line.

Raymond S. Kindley, OSB# 96491

William J. Ohle, OSB# 91386

Of Attorneys for PGP

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**PUBLIC GENERATING POOL
AFFIDAVIT OF WILLIAM J. OHLE**

STATE OF OREGON)
) ss.
County of Multnomah)

I, William J. Ohle, being first duly sworn upon oath, do hereby depose and state as follows:

1. I am an attorney with the law firm of Schwabe, Williamson & Wyatt, P.C., and one of the attorneys for the Public Generating Pool ("PGP") and, as such, have personal knowledge of the facts set forth herein.

2. The PGP was required to file its Protest and Comments in Docket No. RT01-35-000 on Monday, November 20, 2000. At approximately 11:00 a.m.. PST, (2:00 p.m. EST), I attempted to file via electronic filing on FERC's website the PGP Protest

and Comments. I was unable at that time, however, to make a "socket" connection when entering my personal identification information.

3. After failing to sign in on the FERC website, I phoned the FERC helpline found in the electronic filing instructions. At that time, I was informed that a security glitch on my browser setting could be causing the inability to make a connection. I then attempted, after adjusting my browser security, to file the Protest and Comments again; however, I was still unable to make a connection.

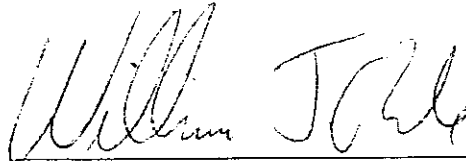
4. At such time, I decided to attempt a filing by fax copy hand-delivered to FERC with a cover letter explaining the inability to file electronically. Such filing, however, was not accepted because it did not include an original signature nor were there 14 copies.

5. I then attempted electronic filing through two other computers, one of my own and one at a separate location by a consultant also representing the PGP. Again, we both received the error message that we could not create a network socket and therefore could not complete the electronic filing.

6. At approximately 1:55 p.m. PST (4:55 p.m. EST), I was able to speak again with the FERC helpline, at which time I was informed that in fact the FERC webpage was experiencing a technical glitch and was not allowing users to sign on.

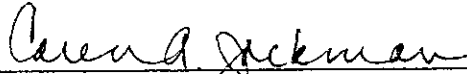
7. Finally, at approximately 2:15 p.m. PST (5:15 p.m. EST), the PGP's consultant, Lon Peters, successfully logged onto the FERC website and was able to electronically file the PGP's Protest and Comments.

8. In any event, filed herewith is a hard copy original of the Protest and Comments, along with 14 copies, which are being delivered by Federal Express from my office in Portland, Oregon, to the FERC office in Washington, DC, for delivery Tuesday morning, November 21, 2000.



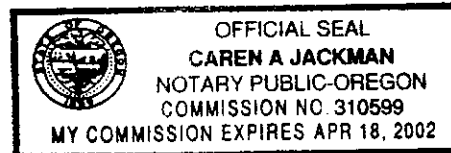
William J. Ohle, OSB# 91386

Subscribed and sworn to before me this 20th day of November, 2000, by William J. Ohle.



Notary Public for Oregon

My commission expires: 04/18/2002



**UNITED STATES OF AMERICA
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**PUBLIC GENERATING POOL
PROTEST AND COMMENTS**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.211 (2000), the Public Generating Pool ("PGP") hereby submits its protest and comments in the above captioned docket. The PGP has separately, and in accordance with the Commission's filing procedures, submitted a motion to intervene in this docket.

PGP files its protest and comments regarding the motions for declaratory orders by Avista Corporation, Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company ("Filing Utilities"). The Filing Utilities submitted to the Commission on October 16,

2000 a proposed compliance filing pursuant to Order 2000.¹ The Filing Utilities also submitted on October 23, 2000 their *Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order No. 2000*, (in accord with 18 C.F.R. § 385.207(a)(7)) (“Compliance Filing”). The Filing Utilities propose to form a regional transmission organization (RTO) called “RTO West”.

The Filing Utilities request that the Commission provide a declaratory order issued on an expedited basis regarding three aspects of the Compliance Filing: (1) the form of RTO West First Restated Articles of Incorporation and RTO West Bylaws as proposed in the filing Attachments R and J; (2) the scope and configuration of RTO West as proposed in the filing; and (3) the form of Agreement Limiting Liability Among RTO West Participants in Attachment Y of the filing (Compliance Filing at 93). Additionally, a small subset of the Filing Utilities (Bonneville Power Administration, Idaho Power Company, and PacifiCorp) separately request the Commission to issue a declaratory order finding that the *concepts* as a package embodied in the Transmission Operating Agreement and Agreement to Suspend Provisions of Pre-Existing Transmission Agreements are acceptable to the Commission and are consistent with the requirements of Order 2000 (Compliance Filing at 95).

PGP submits its protest on the grounds that the Compliance Filing fails to comply with Order 2000. Also, the request by three of the Filing Utilities for the Commission to

¹ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *review pending sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty., WA v. FERC*, Nos. 00-1174, et al. (D.C. Cir.)

approve in concept the Transmission Operation Agreement and the Agreement to Suspend Provisions of Pre-Existing Transmission Agreements is contrary to FERC policy of not approving incomplete filings.

REQUESTED RELIEF

As is explained further below, the Compliance Filing fails to meet the requirements of Order 2000, and contains other significant deficiencies. In addition, the Filing Utilities contemplate further filings before the Commission. Accordingly, the PGP requests several forms of relief of the Commission, including (1) opportunities for further comment when additional materials are submitted by the Filing Utilities; (2) appropriate opportunities for cross-comment, both on the comments filed today and on any comments filed in the future; and (3) denial of the Filing Utilities' requests for declaratory orders on the Compliance Filing as submitted.

PROTEST

I. THE COMPLIANCE FILING FAILS TO COMPLY WITH THE MINIMUM REQUIREMENTS OF ORDER 2000.

In Order 2000, the Commission established four minimum characteristics and eight minimum functions. Based on the materials submitted on October 23, 2000, the Filing Utilities have not established that the Compliance Filing can meet the standards of Order 2000.

Independence (Characteristic 1). The PGP is concerned about the independence of the Board of Trustees, given the proposal that the six investor-owned TransConnect utilities can be represented in RTO West on the Trustee Selection Committee in both the Major Transmitting Utilities class and the Transmission Dependent Utilities class. (See the filing of the TransConnect utilities in Docket No. RT01-15-000, submitted on October 16, 2000.) The Commission should prohibit an entity from voting in more than one class of the Trustee Selection Committee, either directly or indirectly through affiliates.

Scope and Regional Configuration (Characteristic 2). The proposed RTO West does not meet the Commission's definition of the "appropriate region": "one of sufficient scope and configuration to permit the RTO to effectively perform its required functions and to support efficient and nondiscriminatory power markets." (Order 2000 at 247.) The Commission also noted in Order 2000 (at 260) that "[t]o promote reliability and efficiency, portions of the transmission grid that are highly integrated and interdependent should not be divided into separate RTOs." Certain transmission facilities in Nevada are proposed to be included in RTO West that should instead be considered for inclusion in another RTO, because these facilities are integrated and interdependent with the Southwestern portion of the Western Systems Coordinating Council (WSCC), not the Northwestern portion of the WSCC. As a consequence, the Commission should not approve the geographic scope as proposed in the Compliance Filing.

The proposed geographical breadth of RTO West will not enhance either transmission reliability or the development of competitive bulk power markets. In fact, PGP members are concerned that the proposed geographical scope will actually reduce reliability because of the complexity of monitoring system conditions in such widely disparate regions.

RTO West is geographically the largest RTO proposed in the Western Interconnection. For several years, since the discussion of IndeGO in the mid-1990s, the PGP has raised concerns about the size of proposed regional ISOs or RTOs for two main reasons: first, the larger the geographical scope, the more likely that costs will be shifted around within the region encompassed by the ISO or RTO, thus creating winners and losers; second, some planning and operational issues are fundamentally local, not regional. To the extent that a single RTO attempts to resolve all planning and operations issues, the likely results are (a) significant growth in the costs of the organization itself (witness the California ISO's experience) and (b) a lack of effective resolution of issues due to the distance of the decision-makers from the problems themselves. The PGP has argued consistently that a smaller, tightly-integrated ISO or RTO would be more effective at supporting the characteristics and functions that FERC ultimately required in Order 2000. To the extent that an RTO proves its ability to add value with a more narrow initial scope of responsibilities, the requirement for open architecture could be used to expand the scope later.

RTO West should only include transmission facilities necessary to support the bulk power grid in the States of Washington, Oregon, and Idaho and portions of western Montana. The Rocky Mountains form a natural boundary to the east of this area, where four major transmission corridors cross into the Northwest. Between Idaho and Nevada lies a single circuit path that effectively limits firm transmission into Nevada from the north. To the north of this area, the boundary with Canada is also characterized by limited tie-line capabilities that connect the Canadian transmission grid to the United States grid. The Southern Intertie with California consists of three rated paths that are readily allocated for purposes of interregional transmission. These paths separate distinct power markets and load regions that could each perform well as separate RTOs. These significant interregional paths have assigned transfer ratings and have pre-existing contract rights that will facilitate the allocation of transmission rights at the seams.

Reliability benefits may actually be enhanced by properly limiting the geographical scope of RTO West because there are limits on the extent to which operating reserve requirements can be assigned to and shared with generators that are distant from load centers. While generating resources in Utah and Wyoming are associated with load service to utilities in the Northwest, these resources are interconnected through transmission facilities with limited transfer capabilities across Idaho, and are functionally more aligned with and constrained by operations in the Rocky Mountain/Desert Southwest. During major disturbances, existing controlled separation schemes create electrical islands defined by the cutplanes identified above. The objective

of these schemes is to minimize the loss of load and prevent damage to power system facilities. The Filing Utilities have not demonstrated that the existing separation schemes are inadequate to maintain reliability or are in some way inhibiting bulk power markets within the WSCC.

The RTO West proposal encompasses too large a region with regionally different interests and technical objectives. For the reasons cited by the Order 2000 (market scope, ATC calculations, OASIS interaction, and the like) intervenors before the Commission may endeavor to broaden the proposed scope of RTO West. Nevertheless, the Commission should reject any proposals to extend the proposed regional boundaries of RTO West. Rather than attempting to force an unwieldy and unnecessarily large RTO, the Commission should encourage “right-sized” RTOs and require timely resolution of seams issues between such RTOs.

The PGP also agrees with the protest of the Colorado River Commission (“CRC”) of the State of Nevada in this docket (filed October 31, 2000) regarding the inclusion of the Nevada Power Company (“Nevada Power”) in RTO West, for the reasons stated in the CRC’s protest. The transmission facilities of Nevada Power are not closely integrated with the facilities of the remaining Filing Utilities, and the service territory of Nevada Power is remote from the service territories of the remaining Filing Utilities. The Filing Utilities have not demonstrated in their Compliance Filing that the inclusion of the Nevada Power facilities will support the development of wholesale bulk power markets or more efficient and reliable use of either generation or transmission

facilities. Market participants in the northwestern part of the WSCC do not rely to any measurable extent on Nevada Power's single 345 kV transmission line to Utah for either reliable power supplies or the marketing or purchase of surplus power. Indeed, the inclusion of Nevada Power in the proposed RTO West appears to be a matter of mere corporate convenience. The Commission should not permit corporate ownership decisions to dictate the geographical scope of RTOs. (Corporate interests also appear to drive the proposal to include the transmission facilities of PacifiCorp in RTO West, even though those facilities are clearly separated into two distinct subregions of the WSCC, and are not interconnected except by contract rights over the transmission facilities of the Idaho Power Company.)

Further, the PGP asks the Commission to expand the recommendation of the CRC, regarding a "showing of no economic harm" on the limited issue of the inclusion of Nevada Power in RTO West, to the entire RTO West filing. (See CRC Protest at 5.) The PGP supports the notion that formation of RTOs should not result in any economic harm due to additional costs being imposed on consumers in the Northwest. Without such a demonstration, the Commission would commit a substantial procedural and legal error if it were to approve RTO West as filed.

Operational Authority (Characteristic 3). Because the "RTO West Critical Control Facilities" have not yet been identified (i.e., Exhibit E to the Transmission Operating Agreement, Attachment S to the Supplemental Compliance Filing at 99), it is not possible to determine whether RTO West will comply with this standard.

Short-Term Reliability (Characteristic 4). Because the Generation Integration Agreement (“GIA”) has not been submitted yet, and such Agreement is critical to the ability of any RTO to maintain short-term reliability, it is not possible to determine whether RTO West will comply with this standard.

Tariff Administration and Design (Function 1). No tariff has been submitted to the Commission, so it is not possible to judge at this point whether RTO West will comply with this standard.

Congestion Management (Function 2). Because only a brief description of congestion management has been submitted to the Commission, it is not possible to judge at this point whether RTO West will comply with this standard.

Parallel Path Flow (Function 3). Because only a brief description of congestion management has been submitted to the Commission, it is not possible to judge at this point whether RTO West will comply with this standard.

Ancillary Services (Function 4). Without a proposed RTO West tariff, or any details on the methods that RTO West would use to promote competitive markets in ancillary services, it is not possible to determine whether RTO West will comply with this standard. In any event, this standard may be very difficult to meet in the Northwest given the concentration of generation ownership in the region in a few non-jurisdictional hands.

OASIS and Total Transmission Capability (TTC) and Available Transmission Capability (ATC) (Function 5). Based on the Compliance Filing, it appears that RTO

West will operate a FERC-compliant OASIS. However, there is insufficient information in the filing to determine whether RTO West will be able to comply with the Commission's standards regarding the calculation of TTC and ATC.

Market Monitoring (Function 6). Because only a brief description of market monitoring has been submitted to the Commission, it is not possible to judge at this point whether RTO West will comply with this standard.

Planning and Expansion (Function 7). Based on the Compliance Filing, it appears that RTO West will have the ability to comply with this standard.

Interregional Coordination (Function 8). Because major "seams" issues have yet to be resolved within the WSCC, it is not possible to judge whether RTO West will comply with this standard.

As indicated above, the Compliance Filing fails to meet the requirements of Order 2000 in many regards. The Commission should not grant the requests for declaratory approvals.

II. THE COMPLIANCE FILING IS INCOMPLETE AND CANNOT BE APPROVED AS FILED.

The Compliance Filing is simply (and woefully) incomplete. The Commission has rejected filings that fail to provide all the information required by FERC regulations. *See Natural Gas Pipeline Company of America*, Docket No. RP00-77-000, 89 FERC ¶61,340 (Dec. 30, 1999). Here, major portions of the RTO West proposal have been postponed for a Stage 2 filing, which is not expected until the spring of 2001. (See

Compliance Filing at 92.) Even in the materials included in this Stage 1 filing, critical elements are missing. For example, following is a list of the blank Exhibits to the TOA:

- Exhibit B - Transmission Facilities
- Exhibit C - Pre-Existing Transmission Agreements
- Exhibit D - RTO West Controlled Transmission Facilities
- Exhibit E - RTO West Critical Control Facilities
- Exhibit F - Firm Transmission Rights

Additionally, Exhibits G and H contain descriptions of the Company Rates and Annual Transfer Charge Amounts, but nowhere in the Compliance Filing can the reader find any details of these critical elements of the formation of RTO West. Although we have been assured that these blank Exhibits will contain only descriptions of facilities, lists of contracts, and similar information pertinent to individual Participating Transmission Owners (PTOs), the effect of RTO West formation on PGP members is hard to judge in a vacuum. The Compliance Filing also lacks any discussion of the details regarding the translation of pre-existing contracts (PECs) into Firm Transmission Rights (FTRs), and lacks adequate detail about the proposed treatment of non-converted contract rights. These are major “holes” in the Compliance Filing.

Besides these missing or incomplete elements, several critical parts of the Compliance Filing are presented as “descriptions”, including the participation of Canadian entities (Attachments H and I), Congestion Management (Attachment M), Ancillary Services (Attachment N), Market Monitoring (Attachment O), and

Interregional Coordination (Attachment Q). The details of these elements will have significant impacts on the operation and costs of RTO West itself, as well as other market participants. Under the circumstances, the Commission cannot reasonably issue declaratory orders approving any part of the Compliance Filing without knowing and understanding the entire filing.

A final issue of "completeness" involves the request by some non-jurisdictional utilities for a "partial or simplified TOA", which would be executed by such utilities to permit the inclusion of certain limited transmission facilities in the RTO West on a voluntary basis. It was contemplated that such a partial TOA would be the best vehicle to resolve legal issues unique to non-jurisdictional utilities, avoid cost shifting, and leave the responsibility for the costs of such facilities in the hands of the current owners, but at the same time enhance the overall reliability of the Northwest transmission grid. The Filing Utilities have omitted any discussion of even the possibility of such a partial TOA in their Compliance Filing. Given the interest of the Commission in encouraging participation by non-jurisdictional utilities, this omission is critical.

Any decisions regarding declaratory approval of the TOA cannot be arbitrary, capricious, or not in accord with law. Final decisions approving incomplete filings and incomplete contracts may violate that standard. Therefore, PGP requests that the Commission should not issue any declaratory orders until (a) the Filing Utilities complete the Stage 2 filing and deliver it to the Commission, and (b) adequate time and opportunity have been afforded for further comments.

III. THE PROPOSED RATE MAKING AUTHORITIES OF THE RTO MAY BE CONTRARY TO REQUIREMENTS OF THE PACIFIC NORTHWEST POWER PLANNING AND CONSERVATION ACT.

Section 7(i) of the Pacific Northwest Power Planning and Conservation Act, 16 U.S.C. § 839e(i), requires the Bonneville Power Administration to follow several statutory steps in establishing transmission rates. The Bonneville Power Administration cannot avoid these statutory requirements by assigning or delegating its rate-making authority to another entity.

Section 11.2 of the proposed Transmission Operating Agreement provides that RTO West shall have the authority to assign costs of upgrades or expansions it has arranged, pursuant to its Tariff. This assignment of costs by RTO West may result in transmission rates applicable to Bonneville customers that do not comply with the requirements of Section 7(i) of the Northwest Power Planning and Conservation Act.

IV. THE PROPOSED TOA MAY INTERFERE WITH EXISTING CONTRACTS.

The Commission has held that it will not approve agreements submitted for approval where the Commission finds that the agreement will abrogate existing contract rights. *See Montana Power Company*, Docket No. ER97-3397-000, 80 FERC ¶61,234 (Aug. 18, 1997). The Compliance Filing raises concerns that pre-existing contract rights will in fact be abrogated.

First, the Compliance Filing provides in section 15.3 of the TOA that “RTO West shall allocate” available flowpath capacity among PTOs under certain conditions. This allocation by RTO West does not clearly take into account pre-existing contract rights, either converted or non-converted, and thus risks abrogation of such rights. Second, under section 5.2.2 of the TOA, RTO West, and not the Executing Transmission Owner, determines whether restoration of transfer capability is required to meet service commitments. Again, there is no assurance that such determinations by RTO West will not abrogate pre-existing contract rights. Consequently, the Commission should set aside approval of the TOA until the Filing Utilities provide terms that assure existing contract rights are not abridged.

IV. ELEMENTS OF THE PROPOSED PRICING STRUCTURE ARE UNDULY DISCRIMINATORY AND VIOLATE ORDER 2000.

The Commission is obligated to prevent unduly discriminatory practices in transmission access. FERC Docket Nos. RM95-8-000, RM94-7-001, FERC Stats. & Regs. ¶ 31,668, 31,669, 60 Fed. Reg. 17,662, 17,664 (Apr. 7, 1995). Also, under Section 205 of the Federal Power Act, 16 U.S.C. § 824d(b), public utilities are prohibited from providing any undue disadvantage with respect to transmission access. In addition, various elements of Order 2000 are designed to avoid cost shifting and multiplication of access charges.

Here, the Filing Utilities have settled on the Company Rate structure, a form of “license plate pricing”, to minimize the potential for cost shifting due to the formation of

RTO West. While the concept of the Company Rate goes far toward achieving the goal of no or minimal cost shifts, few details of the Company Rate calculation are available in the Compliance Filing. In addition, some aspects of the proposal are troubling, because they may create new forms of pancaked rates, and may actually cause cost shifts among current transmission customers in the Northwest when viewed in the context of BPA's transmission and power rate structures.

The Commission has noted the potential for cost shifts in Order 2000 (at 523; see also at 516: "we affirm that the RTO tariff must not result in transmission customers paying multiple access charges to recover capital costs.") The PGP finds that the proposed Company Rate approach has the potential for discriminatory cost shifts because of the treatment of non-jurisdictional transmission owning entities that choose not to sign the TOA due to the risk of an impermissible delegation of rate-making authority. Specifically, Exhibit H to the TOA (Attachment S to the Compliance Filing at 104ff.) states that BPA's form of the TOA will contain a list of Electric Utilities that fail to become Participating Transmission Owners (PTOs) but, were they to become PTOs, would owe other PTOs so-called "transfer charges", including amounts for historical short-term firm and nonfirm wheeling. It is important to recognize that BPA and RTO West will determine who is on that list, not the utilities so named. If an Electric Utility finds its name in BPA's Exhibit H, it is subject to an "additional Access Charge" for its use of BPA's transmission facilities. These additional Access Charges would only apply

to those utilities that decided not to join RTO West. The charges, therefore, will be unduly discriminatory against those non-participating utilities.

Additionally, according to new power sales agreements executed by the BPA merchant function (the Power Business Line, or "PBL") for service beginning October 1, 2001, formation of RTO West would relieve the PBL of the obligation to arrange and pay for the transfer service that provides for the delivery of federal power to BPA's preference utility customers in the Northwest. It is the PGP's understanding that BPA as an agency would continue to be obligated to make such arrangements, and that these arrangements would be part of the system of "suspended agreements" accompanying formation of RTO West. It is also the PGP's understanding that BPA's transmission function (the Transmission Business Line, or "TBL") is expected to take over the responsibility for transfer service, including the recovery of such costs through TBL's transmission rates. If such transfer service costs are included in TBL's Company Rates, all TBL transmission customers would face a new system of multiple access charges payable to RTO West for the use of the RTO West transmission system, because the customer would pay for the capital costs of TBL's system as well as the capital costs of several other regional transmission systems, all collected through payments to BPA. Such a result, triggered by formation of RTO West, would be a new form of transmission rate pancaking, which is prohibited by Order 2000. Instead of paying multiple charges to cross several systems, however, this new form of pancaking would involve the payment of multiple charges to use only one system. Because this new form of pancaking would

be triggered by the formation of RTO West, a declaratory order by the Commission approving the TOA would violate the explicit policies of Order 2000 prohibiting multiple transmission access charges.

The system of multiple access charges proposed in Exhibit H to the TOA also presents non-jurisdictional utilities with a legal challenge, because they are not permitted to pay for services that are not received. The payment of the "additional Access Charge" would actually be a payment for services not received: the use of non-BPA transmission facilities.

The only way for a non-jurisdictional utility to avoid payment of these multiple access charges is to become a PTO through execution of the TOA. However, this option presents a significant legal problem. Section 14.4 of the TOA provides in effect that, after the Company Rate Period, RTO West will determine what portion of the non-jurisdictional utility's transmission costs will be recovered from the utility's retail loads and what portion will instead be charged to transmission customers using the utility's transmission system through the RTO. This determination by RTO West would amount to an impermissible delegation of rate-making authority by the governing board of the non-jurisdictional utility, because the RTO would in effect be allocating transmission costs between retail and wholesale customers. This impermissible delegation makes execution of the TOA legally impossible for non-jurisdictional utilities in the Northwest. The RTO West TOA thus thwarts an important objective of Order 2000: enabling non-jurisdictional utilities to participate on a voluntary basis. This legal impediment also

means that non-jurisdictional utilities are being unfairly penalized for not participating: their payment of multiple access charges is actually a penalty for non-participation that cannot be avoided without violating state law.

A final element of the TOA causes significant concern. Section 9.4 of the TOA requires RTO West to make payments to PTOs for access to and use of Remedial Action Schemes (RAS). Absent any other information, it is reasonable to assume that RTO West will recover these costs through its uplift charge, which will be assessed on all transmission customers. This provision shifts costs from the customers of the PTOs that made these arrangements in the first place to all customers of the RTO. This result is contrary to the broad Commission policies in Order 2000 that support license plate pricing: the avoidance of cost shifts.

V. THE PROPOSED ASSIGNMENT OF FTRS FOR LOAD GROWTH MAY BE UNDULY DISCRIMINATORY.

In sections 15.1 and 15.2 of the TOA, the Filing Utilities propose a method for defining and allocating Firm Transmission Rights (FTRs), including the adjustment of these FTRs over time in recognition of Load Service Obligations (LSOs). The definition of LSOs is sufficiently vague that they may or may not cover or include service to growth in retail load of transmission customers with both point-to-point (PTP) and network transmission (NT) rights. The PGP protests this proposed allocation of FTRs if and to the extent that FTRs for load growth are made available only to NT customers. Such a limit

would treat utilities with legally equivalent retail service obligations in an unduly discriminatory manner.

In the future, PGP member utilities expect to rely on various combinations of both PTP and NT services, within the availability limits of BPA's Open-Access Transmission Tariff (OATT) and FERC policy. However, whether or not these utilities purchase PTP or NT service, they all have obligations under state law to meet all retail loads in a reliable and economical manner, including future load growth. These future obligations to meet load growth constitute an LSO under both the proposed TOA (see §15.2.1) and the proposed Congestion Management Model (see Attachment M to the Compliance Filing). The Commission should require the Filing Utilities to ensure that all LSOs are treated equally, whether or not the utility purchasing wholesale transmission has selected PTP or NT service.

COMMENTS

I. THE COMMISSION SHOULD ASSESS THE OVERALL COSTS AND BENEFITS OF RTO WEST.

One significant concern for the Northwest is whether there are adequate benefits of RTO formation to offset the obvious costs. Benefits, as well as costs, may derive from a number of sources, and in some cases will be difficult to quantify. It is to the credit of the Filing Utilities that an attempt was made to estimate the overall costs and benefits of RTO West. However, that effort remains incomplete and unfinished, and the draft report on this issue is extremely controversial within the region. Although the Commission has

not indicated a keen interest in this subject, it remains critical for acceptance of any RTO proposal in the Northwest.

Based on information available to date, it appears that RTO West will clearly impose a variety of costs on consumers in the Northwest, ranging from the costs of setting up and running the RTO, to likely increases in energy prices triggered in part by the specific nature of the Company Rate design. The potential benefits of RTO West are more illusory, which is not surprising given that the organization is not yet operational. The benefits vary by orders of magnitude based on speculation about the avoided cost of disturbances. A more rigorous analysis of the reliability benefits of the RTO should have been presented in the report to justify the claimed benefits. Until RTO West has been defined in greater detail, the benefits remain speculative.

Further, an extensive transition period will clearly be required before any new organization can be entrusted with the reliability of the Northwest grid. The costs of duplicating existing control and telecommunications structures, and operating such duplicate facilities for an extensive period, call into question the value of the proposal as filed with the Commission. It is time to step back and ask, "is this the best and most valuable use of scarce resources in the Northwest?"

It is the judgement of the PGP that the overall costs and benefits of RTO West are not in balance, and that in fact this new entity will prove to bring more costs than benefits to consumers. Furthermore, there is the strong likelihood that formation of RTO West will create clear winners and clear losers. This is not a prescription for success. The

PGP concludes that FERC should not approve RTO-West without a determination of cost-effectiveness to consumers in the Northwest.

II. FURTHER OPPORTUNITIES FOR COMMENT ARE NECESSARY.

The Compliance Filing clearly states that the Filing Utilities do not give their “final approval” to either the TOA or the Agreement to Suspend Provisions of Pre-Existing Transmission Agreements. (Compliance Filing at 93.) Six of the Filing Utilities do not even ask the Commission to review these two agreements. (Compliance Filing at 94.) All Filing Utilities further contemplate the filing of further information, including possibly amendments to these two agreements, by December 1, 2000. (Compliance Filing at 94.) Finally, the Compliance Filing clearly defers many elements to Stage 2. (Compliance Filing at 95.) The tentative, preliminary, and incomplete nature of the Stage 1 filing is reinforced by these statements. Thus, FERC should create the opportunity for additional comments (a) if the TOA is amended as contemplated in early December and (b) when the Stage 2 filing is submitted. In addition, the Commission should afford an opportunity for cross-comments during these same periods.

III. THE PROPOSED SCOPE OF THE INCLUDED TRANSMISSION FACILITIES APPEARS REASONABLE.

In the (significantly incomplete) Transmission Operating Agreement (TOA), the Filing Utilities propose a layered approach to the questions of “facilities inclusion”, transmission operations, and transmission planning. The “layers” are created by three

categories of transmission facilities in the TOA: "Transmission Facilities", "RTO West Controlled Transmission Facilities" ("Controlled Facilities"), and "RTO West Critical Control Facilities" ("Critical Control Facilities"). Because essential Exhibits to the TOA have not been submitted by the Filing Utilities, it is possible only to discuss these three categories in the abstract; once the proposed Stage 2 filing is completed, it will be necessary to revisit these categories and the appropriate role of RTO West for each type of transmission facility.

Generally speaking, Critical Control Facilities are a subset of Controlled Facilities, which in turn are a subset of Transmission Facilities. The proposed role of RTO West is the smallest for the Transmission Facilities, and greatest for the Critical Control Facilities. RTO West would have "primary responsibility" for planning Controlled Facilities (including Critical Control Facilities), whereas the Executing Transmission Owner (ETO) would retain responsibility for remaining Transmission Facilities. The PGP supports this limited role for RTO West in planning, and urges the Commission not to expand that role. A greater role for RTO West would threaten to "regionalize" debates about the best solutions to local transmission problems, because of the concern about the likelihood that the costs of such solutions would also be (inappropriately) regionalized. A more limited role for RTO West and retention of planning responsibilities by the ETOs is appropriate, and consistent with the PGP's overall recommendation for a more limited RTO, at least initially. RTO West's primary focus should be on managing the bulk power grid.

IV. THE PROPOSED VOTING STRUCTURE IN THE TDU CLASS IS REASONABLE.

The proposed Bylaws of RTO West include a two-part voting structure to be used by the Transmission Dependent Utility (TDU) class when electing members of the Trustee Selection Committee. (See the Compliance Filing, Attachment J, Article V, Section 3(b)(ii).) Should all the deficiencies identified above in the Compliance Filing be cured, this voting structure should not be disturbed by the Commission, because it provides an essential form of balance among large and small members of this class. However, the Commission should not permit the TransConnect utilities (see Docket RT00-15-000) to have representatives in both the TDU Class and the Major Transmitting Utilities Class, because that creates the risk that the TransConnect utilities could control an excessive number of votes on the Trustee Selection Committee.

CONCLUSION

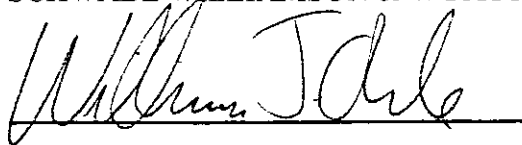
WHEREFORE, PGP respectfully requests that the Commission not approve the incomplete RTO West Compliance Filing through declaratory order at this time, and postpone any decision until the Filing Utilities complete the supporting documentation regarding the development of RTO West through their contemplated Stage 2 filing.

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Additionally, the PGP respectfully requests that the Commission require the Filing Utilities to revise the submitted documents to eliminate the problems that PGP identifies in this protest.

Respectfully submitted this 20th day of November, 2000.

SCHWABE WILLIAMSON & WYATT

A handwritten signature in dark ink, appearing to read "William J. Ohle", is written over a horizontal line.

Raymond S. Kindley, OSB# 96491
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Of Attorneys for PGP

CERTIFICATE OF MAILING (SERVICE LIST)

I HEREBY CERTIFY that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

DATED at Portland, Oregon, this 20th day of November, 2000.

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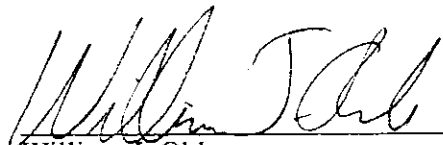
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